Reprinted
February 26, 2002

ENGROSSED
SENATE BILL No. 107

DIGEST OF SB 107 (Updated February 25, 2002 1:32 PM - DI 77)

Citations Affected: IC 4-12; noncode.

Synopsis: Prescription drugs. Deposits rebates from the prescription drug program (program) in the prescription drug account. Allows money in the account to be used to match federal funds. Establishes program eligibility requirements and annual benefit limits. Provides that a prescription is valid for one year from the date the prescription is filled. Provides a member of the prescription drug advisory committee is a township trustee. Extends expiration date of the committee to December 31, 2004. Extends the date for the committee to make design recommendations for the program to the governor and the family and social services administration. Requires the office of Medicaid policy and planning (OMPP) to seek a federal waiver for the program after the proposed waiver has been reviewed by the committee. Requires the proposed waiver to limit state expenditures to money appropriated from the tobacco master settlement fund (fund). Provides that money appropriated to the to the prescription drug account from the fund in 2000, but that was not placed in the account, is appropriated to the account. Requires OMPP to establish a point of sale system in the program before July 1, 2001.

Effective: December 30, 2001 (retroactive); upon passage; July 1, 2002.

Riegsecker, Simpson
(HOUSE SPONSORS — BECKER, BROWN C)

January 7, 2001, read first time and referred to Committee on Rules and Legislative Procedure.
January 17, 2002, reported favorably — Do Pass.
January 22, 2002, read second time, ordered engrossed.
January 23, 2002, engrossed.
January 24, 2002, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 5, 2002, read first time and referred to Committee on Public Health.
February 21, 2002, amended, reported — Do Pass.
February 25, 2002, read second time, amended, ordered engrossed.

Reprinted
February 26, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED
SENATE BILL No. 107

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-12-8-2, AS AMENDED BY P.L.291-2001, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The Indiana prescription drug account is established within the Indiana tobacco master settlement agreement fund for the purpose of providing access to needed prescription drugs to ensure the health and welfare of Indiana's low-income senior citizens. The account consists of:

(1) amounts to be distributed to the account from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the account from other sources; ~~and~~

(3) **rebates for the Indiana prescription drug program established under IC 12-10-16; and**

(4) grants, gifts, and donations intended for deposit in the account.

(b) The account shall be administered by the budget agency. Expenses for administration and benefits under the Indiana prescription drug program established under IC 12-10-16 shall be paid from the

account. Money in the account at the end of the state fiscal year does not revert to the state general fund **or the Indiana tobacco master settlement agreement fund** but **is annually appropriated and** remains available for expenditure **for the Indiana prescription drug program.**

(c) Money in the account may be used to match federal funds for the Indiana prescription drug program established under IC 12-10-16.

SECTION 2. IC 25-26-13-25, AS AMENDED BY P.L.270-2001, SECTION 4, AND AS AMENDED BY P.L.288-2001, SECTION 4, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) *Except as provided in subsection (c) before the expiration of subsection (c) on June 30, 2003,* a prescription for any drug, the label of which bears *either* the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) *A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner if all of the following conditions are met:*

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill". This subsection expires June 30, 2003.

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

~~(d)~~ *(e)* The original prescription form or the other board approved record described in subsection ~~(c)~~ *(d)* must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

~~(e)~~ *(f)* A prescription is valid for not more than one (1) year after the original date of ~~*filling. issue.*~~ **filling.**

~~(f)~~ *(g)* A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

~~(g)~~ *(h)* A pharmacist may not knowingly dispense a prescription after the demise of the patient.

~~(h)~~ *(i)* A pharmacist or a pharmacy shall not ~~*accept medication*~~ *resell, reuse, or redistribute a medication* that is returned ~~*for resale or redistribution*~~ *to the pharmacy after being dispensed* unless the medication:

(1) was dispensed to a patient residing in an institutional facility (as defined in 856 IAC 1-28-1(a));

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as defined in IC 25-26-13-17).

~~(i)~~ *(j)* A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under subsection (h).

(k) A pharmacist who violates subsection (c) commits a Class A infraction.

SECTION 3. P.L.291-2001, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 30, 2001 (RETROACTIVE)]: SECTION 81. (a) The Indiana prescription drug advisory committee is established to:

(1) study pharmacy benefit programs and proposals, including programs and proposals in other states; and

(2) make initial and ongoing recommendations to the governor for programs that address the pharmaceutical costs of low-income senior citizens.

(b) The committee consists of eleven (11) members appointed by the governor and four (4) legislative members. The term of each member expires December 31, ~~2001.~~ **2004.** The members of the committee appointed by the governor are as follows:

(1) A physician with a specialty in geriatrics.

(2) A pharmacist.

(3) A person with expertise in health plan administration.

(4) A representative of an area agency on aging.

(5) A consumer representative from a senior citizen advocacy organization.

(6) A person with expertise in and knowledge of the federal Medicare program.

(7) A health care economist.

(8) A person representing a pharmaceutical research and manufacturing association.

(9) A township trustee.

~~(9)~~ ~~Three~~ ~~(3)~~ **(10) Two (2)** other members as appointed by the governor.

The four (4) legislative members shall serve as nonvoting members. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana prescription drug account created by IC 4-12-8, as added by this act. The office of the secretary of family and social services shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The ~~advisory council~~ **committee** is a governing body for purposes of IC 5-14-1.5.

(d) Not later than September 1, ~~2000,~~ **2004,** the ~~board~~ **committee** shall make program design recommendations to the governor and the family and social services administration concerning the following:

(1) Eligibility criteria, including the desirability of incorporating an income factor based on the federal poverty level.

(2) Benefit structure.

(3) Cost-sharing requirements, including whether the program should include a requirement for copayments or premium payments.

(4) Marketing and outreach strategies.

(5) Administrative structure and delivery systems.

(6) Evaluation.

(e) The recommendations shall address the following:

(1) Cost-effectiveness of program design.

(2) Coordination with existing pharmaceutical assistance programs.

(3) Strategies to minimize crowd-out of private insurance.

(4) Reasonable balance between maximum eligibility levels and maximum benefit levels.

(5) Feasibility of a health care subsidy program where the amount of the subsidy is based on income.

(6) Advisability of entering into contracts with health insurance companies to administer the program.

(f) **Except for a federal Medicaid waiver,** the committee may not recommend the use of funds from the Indiana prescription drug account for a state prescription drug benefit for low-income senior citizens if there is a federal statute or program providing a similar prescription drug benefit for the benefit of low-income senior citizens.

(g) This SECTION expires December 31, ~~2001.~~ **2004.**

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and**

planning.

(b) Before the office may submit an application for a federal Medicaid waiver that will have an effect on the Indiana prescription drug program established by IC 12-10-16-3, as amended by this act, the office must submit the proposed Medicaid waiver to the prescription drug advisory committee. The Indiana prescription drug advisory committee shall review, approve, and allow public comment on the proposed Medicaid waiver.

(c) Any prescription drug program implemented or established by the office or a contractor of the office under this SECTION may only limit access to prescription drugs for the recipients in the Indiana prescription drug program to the extent that restrictions are in place in the Medicaid program as of June 30, 2002.

(d) Before July 1, 2002, the office shall apply to the United States Department of Health and Human Services for approval of any waiver necessary under the federal Medicaid program to provide prescription drugs to low income Indiana residents.

(e) Any waiver developed under the Medicaid program must limit the program's state expenditures to funding appropriated for the Indiana prescription drug program from the Indiana tobacco master settlement fund.

(f) The office may not implement the waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(g) If the office receives a waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (f), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(h) This SECTION expires December 31, 2004.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) There is appropriated from the Indiana tobacco master settlement agreement fund (IC 4-12-1-14.3) fifteen million five hundred sixteen thousand six hundred eighteen dollars ($15,516,618) to the Indiana prescription drug account. The budget agency shall allot the money appropriated in this subsection for the Indiana prescription drug account.**

(b) Notwithstanding IC 4-12-1-14.3, the amount appropriated under subsection (a) is the remainder of the amount appropriated under P.L.21-2000, SECTION 12 for the Indiana prescription drug

program that was not placed in the Indiana prescription drug account and does not count against the maximum amount of expenditures, transfers, or distributions that may be made from the Indiana tobacco master settlement agreement fund during the state fiscal year.

(c) This SECTION expires July 1, 2004.

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office the secretary of family and social services.**

(b) As used in this SECTION, "point of sale system" means a system that uses an electronic hardware device that is:

(1) operated by a pharmacist on behalf of the office; and

(2) capable of reading information on a card that is issued by the office and providing an immediate prescription drug benefit to the eligible recipient.

(c) Before July 1, 2002, the office shall establish and implement a point of sale system for the Indiana prescription drug program established by IC 12-10-16-3.

(d) This SECTION expires July 1, 2002.

SECTION 7. **An emergency is declared for this act.**

COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 107, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 107 as introduced.)

GARTON, Chairperson

Committee Vote: Yeas 6, Nays 0.

SENATE MOTION

Mr. President: I move that Senator Simpson be added as coauthor of Senate Bill 107.

RIEGSECKER

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 107, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-12-8-2, AS AMENDED BY P.L.291-2001, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The Indiana prescription drug account is established within the Indiana tobacco master settlement agreement fund for the purpose of providing access to needed prescription drugs to ensure the health and welfare of Indiana's low-income senior citizens. The account consists of:

(1) amounts to be distributed to the account from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the account from other sources; ~~and~~

(3) **rebates for the Indiana prescription drug program established under IC 12-10-16; and**

(4) grants, gifts, and donations intended for deposit in the account.

(b) The account shall be administered by the budget agency. Expenses for administration and benefits under the Indiana prescription drug program established under IC 12-10-16 shall be paid from the account. Money in the account at the end of the state fiscal year does not revert to the state general fund **or the Indiana tobacco master settlement agreement fund** but **is annually appropriated and** remains available for expenditure **for the Indiana prescription drug program.**

(c) Money in the account may be used to match federal funds for the Indiana prescription drug program established under IC 12-10-16.

SECTION 2. IC 12-10-16-3, AS ADDED BY P.L.21-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. **(a)** The office of the secretary shall administer a program implementing the recommendations of the prescription drug advisory committee to provide access to needed pharmaceuticals to ensure the health and welfare of Indiana's low-income senior citizens.

(b) An Indiana resident is eligible to participate in the program

under the Medicaid waiver if the resident meets the following criteria:

(1) The resident is at least sixty-five (65) years of age.

(2) The resident has a family income of not more than two hundred percent (200%) of the federal poverty level, without regard to the resident's countable assets.

(3) The resident has completed the application prescribed by the office.

(4) The resident meets the conditions required by the Medicaid waiver.

(c) An Indiana resident is eligible to participate in the program if the resident meets the following criteria:

(1) The resident is at least sixty-five (65) years of age.

(2) The resident has a family income of not more than two hundred percent (200%) of the federal poverty level.

(3) The resident has completed the application prescribed by the office.

SECTION 3. IC 12-10-16-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 7. The office shall establish, for each individual in the program, an annual prescription drug benefit that is at least one thousand dollars ($1,000) and not more than two thousand dollars ($2,000).**".

Page 2, between lines 7 and 8, begin a new line block indented and insert:

"**(9) A township trustee.**".

Page 2, line 8, strike "(9) Three (3)" and insert "**(10) Two (2)**".

Page 3, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning.**

(b) Before the office may submit an application for a federal Medicaid waiver that will have an effect on the Indiana prescription drug program established by IC 12-10-16-3, as amended by this act, the office must submit the proposed Medicaid waiver to the prescription drug advisory committee. The Indiana prescription drug advisory committee shall review and allow public comment on the proposed Medicaid waiver.

(c) Any prescription drug program implemented or established by the office or a contractor of the office under this SECTION must provide unrestricted access to prescription drugs for the recipients in the Indiana prescription drug program.

(d) The office or a contractor of the office may not use programs to limit or restrict access to the prescription drugs in the Indiana prescription drug program, including the use of prior authorization, prescription quantity limits, or a preferred drug list.

(e) This SECTION expires December 31, 2004.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) Before July 1, 2002, the office shall apply to the United States Department of Health and Human Services for approval of any waiver necessary to fund prescription drugs under the Indiana prescription drug program established by IC 12-10-16-3, as amended by this act.

(c) The office may not implement the waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(d) If the office receives a waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

SECTION 8. [EFFECTIVE JULY 1, 2002] **(a) There is appropriated from the Indiana tobacco master settlement agreement fund (IC 4-12-1-14.3) fifteen million five hundred sixteen thousand six hundred eighteen dollars ($15,516,618) to the Indiana prescription drug account. The budget agency shall allot the money appropriated in this subsection for the Indiana prescription drug account.**

(b) Notwithstanding IC 4-12-1-14.3, the amount appropriated under subsection (a) is the remainder of the amount appropriated under P.L.21-2000, SECTION 12 for the Indiana prescription drug program that was not placed in the Indiana prescription drug account and does not count against the maximum amount of expenditures, transfers, or distributions that may be made from the Indiana tobacco master settlement agreement fund during the state fiscal year.

(c) This SECTION expires July 1, 2004.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office the secretary of family and social services.**

(b) As used in this SECTION, "point of sale system" means a system that uses an electronic hardware device that is:

(1) operated by a pharmacist on behalf of the office; and

(2) capable of reading information on a card that is issued by the office and providing an immediate prescription drug benefit to the eligible recipient.

(c) Before July 1, 2002, the office shall establish and implement a point of sale system for the Indiana prescription drug program established by IC 12-10-16-3.

(d) This SECTION expires July 1, 2002.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 107 as printed January 18, 2002.)

BROWN C, Chair

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 107 be amended to read as follows:

Page 2, delete lines 9 through 38.

Page 4, line 21, delete "The" and insert "**Except for a federal Medicaid waiver,** the".

Page 4, line 35, after "review" insert "**, approve,**".

Page 4, line 39, delete "must provide unrestricted" and insert "**may only limit**".

Page 4, line 40, after "program" insert "**to the extent that restrictions are in place in the Medicaid program as of June 30, 2002**".

Page 4, delete lines 41 through 42.

Page 5, delete lines 1 through 6.

Page 5, line 7, delete "(b)" and insert "**(d)**".

Page 5, line 9, delete "to fund" and insert "**under the federal Medicaid program to provide**".

Page 5, line 9, delete "under the Indiana" and insert "**to low income Indiana residents.**".

Page 5, delete lines 10 through 11.

Page 5, between lines 11 and 12, begin a new paragraph and insert:

"**(e) Any waiver developed under the Medicaid program must limit the program's state expenditures to funding appropriated for the Indiana prescription drug program from the Indiana tobacco master settlement fund.**".

Page 5, line 12, delete "(c)" and insert "**(f)**".

Page 5, line 17, delete "(d)" and insert "**(g)**".

Page 5, line 19, delete "(c)" and insert "**(f)**".

Page 5, between lines 21 and 22, begin a new paragraph and insert:

"**(h) This SECTION expires December 31, 2004.**".

Page 5, line 22, delete "[EFFECTIVE JULY 1, 2002]" and insert "[EFFECTIVE UPON PASSAGE]".

Renumber all SECTIONS consecutively.

(Reference is to ESB 107 as printed February 22, 2002.)

BROWN C

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 107 be amended to read as follows:

Page 2, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 4. IC 25-26-13-25, AS AMENDED BY P.L.270-2001, SECTION 4, AND AS AMENDED BY P.L.288-2001, SECTION 4, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) *Except as provided in subsection (c) before the expiration of subsection (c) on June 30, 2003,* a prescription for any drug, the label of which bears *either* the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) *A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner if all of the following conditions are met:*

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same

pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill". This subsection expires June 30, 2003.

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

~~*(d)*~~ *(e)* The original prescription form or the other board approved record described in subsection ~~*(c)*~~ *(d)* must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

~~*(e)*~~ *(f)* A prescription is valid for not more than one (1) year after the original date of ~~*filling. issue.*~~ **filling.**

~~*(f)*~~ *(g)* A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

~~*(g)*~~ *(h)* A pharmacist may not knowingly dispense a prescription after the demise of the patient.

~~*(h)*~~ *(i)* A pharmacist or a pharmacy shall not ~~*accept medication*~~ *resell, reuse, or redistribute a medication* that is returned ~~*for resale or redistribution*~~ *to the pharmacy after being dispensed* unless the medication:

(1) was dispensed to a patient residing in an institutional facility (as defined in 856 IAC 1-28-1(a));

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9),

unless the pharmacy holds a Type II permit (as defined in IC 25-26-13-17).

~~(i)~~ *(j)* A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under subsection (h).

(k) A pharmacist who violates subsection (c) commits a Class A infraction.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 107 as printed February 22, 2002.)

BROWN T